

Remarks

Claims 1 and 5 are amended to specify that the injection-molded capsule container comprises at least one wall having a material that will dissolve at an intended aqueous destination site and this material leaves perforations throughout the wall when the container is placed in contact with an aqueous environment. This amendment is supported in the specification, including at ¶ 0025.

At pages 2-3 of the Office Action the Examiner rejects claims 1-6 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,769,267 to Duynslager *et al.* ("Duynslager"). Reconsideration and withdrawal of this rejection is respectfully requested.

The Examiner refers to the record regarding this reference as set forth in the Office Action mailed on September 23, 2005. The Examiner further responds to the arguments presented on behalf of the applicants in the response submitted on March 22, 2006. In that regard, the Examiner asserts that Duynslager discloses an injection molded capsule. The Examiner further asserts that disclosure of a bactericide in Duynslager is also disclosure of a biocide and because Duynslager discloses a composition for the killing of bacteria in the human body and the reference discloses a composition for the care of a human body, including its surfaces, Duynslager discloses a surface care composition.

A prior art patent anticipates when the patent describes all the elements and limitations of the claim and enables one skilled in the art to make and use the claimed invention. *Merck & Co. v. Teva Pharmaceuticals USA Inc.*, 347 F.3d 1367, 1372, 68 U.S.P.Q. 2d 185 (Fed. Cir. 2003). Duynslager discloses telescope-type capsule containers for pharmaceuticals and, possibly, fertilizers and in particular those with a pre-lock and closure for fully closing the container. (See, Duynslager at column 1, lines 4-8.) Duynslager, however, does not disclose a container with at least one wall having a water soluble material that, when placed in an aqueous environment, leaves perforations throughout the wall, which is a necessary element of the present invention under the amended claims. The discussion in Duynslager regarding the telescopic container does

not expressly or inherently disclose to the art the novel containers of the present invention having water-soluble material such that the container becomes perforated when contacted with an aqueous environment. Accordingly, the present invention, as set forth in the amended claims, is not anticipated by Duynslager.

The present invention is also not obvious over Duynslager. As discussed above, Duynslager concerns telescope-type capsule containers for pharmaceuticals and, possibly, fertilizers and in particular those with a pre-lock and closure for fully closing the container. The entire teaching of Duynslager is directed to making a container which can be pre-locked and more fully closed than those in the art. There is no teaching or suggestion in Duynslager of including water soluble material in a container for the purpose of providing perforations in the container. Accordingly, there is no motivation in Duynslager of the present invention which is a container having at least one wall with water soluble material that leaves perforations throughout the wall when the container is placed into contact with an aqueous environment and the claims are amended accordingly. Based on the foregoing, the present invention, as set forth in the amended claims, is not obvious over Duynslager.


Conclusion

The instant application is believed to be in condition for allowance. A Notice of Allowance of Claims 1-6 is respectfully requested. The Examiner is invited to telephone the undersigned at (908) 722-0700 if it is believed that further discussions, and/or additional amendment would help advance the prosecution of the instant application.

If any additional extension of time is required, Applicants request that this be considered a petition therefor. Please charge any required petition fee to the Deposit Account No. 14-1263.

Please charge any insufficiency of fees, or credit any excess, to the Deposit
Account No. 14-1263.

Respectfully submitted,


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